

**FILED**

**FEB 16 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH LEE SANDERS,

Defendant - Appellant.

No. 05-35151

D.C. Nos. CV-04-01300-ALH  
CR-03-00422-ALH

MEMORANDUM \*

Appeal from the United States District Court  
for the District of Oregon  
Ancer L. Haggerty, District Judge, Presiding

Submitted February 13, 2006 \*\*

Before: FERNANDEZ, RYMER and BYBEE, Circuit Judges.

Joseph Lee Sanders appeals from the district court's denial of his 28 U.S.C.  
§ 2255 motion alleging sentencing enhancements in violation of his Sixth  
Amendment rights and ineffective assistance of counsel. We have jurisdiction

---

\* This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 28 U.S.C. § 2253, and we affirm.

The plain language of Sanders' appeal waiver encompasses his right to appeal or to make a § 2255 challenge, except to claim ineffective assistance of counsel. *See United States v. Joyce*, 352 F.3d 921, 922 (9th Cir. 2004). Because Sanders was informed of the consequences of the waiver, both at the time of the signing of the plea and at the change of plea hearing, the waiver was knowingly and voluntarily made. *See United States v. Anglin*, 215 F.3d 1064, 1066 (9th Cir. 2000). It is therefore enforceable, and we lack jurisdiction to review Sanders' claim that *Blakely v. Washington*, 542 U.S. 296 (2004), and/or *United States v. Booker*, 125 S. Ct. 738 (2005), apply to his case. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

Sanders' contention that his counsel provided ineffective assistance for failing to raise a *Blakely/Booker* argument at sentencing fails. *See Strickland v. Washington*, 466 U.S. 668, 689-90 (1984).

**AFFIRMED.**